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(2)

Supreme Court, U.S.
FILED

041422 MAR 12 2005

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

MARIA DEL ROSARIO JIMENEZ SANCHEZ
Petitioner

v.

ALBERTO GONZALES ATTORNEY GENERAL
Respondent

SUPPLEMENTAL APPENDIX
USCA NO.: 04-73565
Agency No.: A72-321-106

PETITION FOR WRIT OF CERTIORARI

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UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
Los Angeles, California

File A 72 321 106 April 10, 2003

In the Matter of

MARIA DEL ROSARIO JIMENEZ SANCHEZ,
Respondent

IN REMOVAL PROCEEDINGS

CHARGE: Section 212 (a) (6) (A) (i)

APPLICATION: Cancellation of removal pursuant to Section 240A (b) (1), voluntary departure in lieu of removal pursuant to Section 240B (b) (2).

IN BEHALF OF RESPONDENT:

Loretta Ramirez, Esquire

IN BEHALF OF GOVERNMENT:

Megan Berry
Assistant District Counsel

ORAL DECISION OF THE IMMIGRATION JUDGE

The respondent is an adult, female alien, native and citizen of Mexico who entered the United States on

July 18, 1998 without being admitted or paroled after inspection by an immigration officer. In pleading to the Notice to Appear (Exhibit 1), respondent admitted the four factual allegations while conceding, and I am satisfied that she is removable on the charges set forth therein. Respondent designated Mexico as the country of removal and applied for cancellation of removal under Section 240A (b) (1) of the Act.

The Court finds the respondent statutorily ineligible for the requested relief of cancellation of removal on tow grounds: (1) she lacks any qualifying relatives, and (2) she is unable to satisfy the physical presence requirement due to the fact that she signed for voluntary return to Mexico in July 1997, and indeed was returned to Mexico based upon that agreement on July 17, 1997. Accordingly, the Court finds the respondent is statutorily ineligible for the requested relief of cancellation of removal.

And respondent has applied for voluntary departure in the alternative. She is eligible for relief, and I will grant that minimal relief in the exercise of my discretion. There are adverse factors in the respondent's case, to wit, the respondent does have a conviction for shoplifting in this country, and also she was previously granted voluntary return to Mexico, went to that country, and then a short time later returned to this country illegally. Notwithstanding the adverse factors, the Court is prepared to grant the respondent's application for voluntary departure in the exercise of its discretion. The Service indicates that it does not oppose the granting of he application.

Accordingly, the following orders will be entered.

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APPENDIX I

IT IS ORDERED that respondent's application for cancellation of removal pursuant to Section 240A(b) (1) of the Act be and the same is hereby denied.

IT IS FURTHER ORDERED that respondent's application for voluntary departure in lieu of removal pursuant to Section 240B (b) (2) of the Act be and the same is hereby being granted provided respondent departs the United States on or before the 1st of June 2003 or any extension beyond such date granted to her by the District Director or the Immigration Service and provided respondent post a $1,000 departure bond with the Government within five business days of the Court's decision today.

If either of those provisions or conditions is not met, then an alternative order will immediately become effective, to wit, respondent shall be removed from the United States to Mexico on the charge contained in the Notice to Appear in her case.

William J. Martin
Immigration Judge

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APPENDIX I